

# EXHIBIT 14

This Transcript Contains Confidential Material

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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4 IN RE: TERRORIST ATTACKS : 03-MDL-1570  
5 ON SEPTEMBER 11, 2001 : (GBD) (SN)

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10 JULY 22, 2021

11 THIS TRANSCRIPT CONTAINS  
12 CONFIDENTIAL MATERIAL

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17 Remote Videotaped  
18 Deposition, taken via Zoom, of JONATHAN  
19 MARKS, commencing at 9:00 a.m., on the  
20 above date, before Amanda  
21 Maslynsky-Miller, Certified Realtime  
22 Reporter and Notary Public in and for the  
23 Commonwealth of Pennsylvania.

24

25 - - -

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None



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(It is hereby stipulated and

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agreed by and among counsel that

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sealing, filing and certification

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are waived; and that all

6

objections, except as to the form

7

of the question, will be reserved

8

until the time of trial.)

9

- - -

10

VIDEO TECHNICIAN: We are

11

now on the record. My name is

12

David Lane, videographer for

13

Golkow Litigation Services.

14

Today's date is July 22nd, 2021.

15

Our time is 9:00 a.m.

16

This remote video deposition

17

is being held in the matter of the

18

Terrorist Attacks on September

19

11th, 2001. The deponent today is

20

Jonathan Marks.

21

All parties to this

22

deposition are appearing remotely

23

and have agreed to the witness

24

being sworn in remotely.

1                   Due to the nature of remote  
2                   reporting, please pause briefly  
3                   before speaking so that all  
4                   parties are heard completely.

5                   Counsel will be noted on the  
6                   stenographic record. Our court  
7                   reporter today is Amanda Miller  
8                   who will now swear in our witness.

9                                 -   -   -

10                   JONATHAN MARKS, after having  
11                   been duly sworn, was examined and  
12                   testified as follows:

13                                 -   -   -

14                   VIDEO TECHNICIAN: Please  
15                   begin.

16                                 -   -   -

17                                 EXAMINATION

18                                 -   -   -

19                   BY MR. CARTER:

20                   Q.       Good morning, Mr. Marks.  
21                   How are you?

22                   A.       Good morning. How are you,  
23                   sir?

24                   Q.       I'm well.

1                   My name is Sean Carter, and  
2   I'm one of the attorneys representing  
3   plaintiffs in litigation pending in  
4   federal court in New York related to the  
5   September 11th attacks. The purpose  
6   today is to take your deposition in that  
7   matter.

8                   The plaintiffs in the  
9   litigation are family members who lost  
10   loved ones in the attacks, survivors of  
11   the attacks, as well as commercial  
12   parties that suffered property and  
13   economic losses.

14                  Are you aware of that?

15                A.    I am.

16                Q.    My understanding is that  
17   you've been retained to serve as an  
18   expert by defendants, WAMY Saudi Arabia  
19   and WAMY USA; is that correct?

20                A.    I believe so.

21                Q.    Do you not know?

22                A.    Well, yes.

23                Q.    Have you ever been deposed  
24   before?

1 A. It does.

2 Q. And were there other  
3 individuals at Baker Tilly involved in  
4 this project?

5 A. Yes.

6 Q. Do you recall approximately  
7 how many other people were involved in  
8 this project?

9 A. I believe there was about 12  
10 people on our team, yes.

11 MR. CARTER: And if we could  
12 mark collectively the invoices  
13 that were produced that are  
14 located at Tab 5 as the next  
15 exhibit.

16 - - -

17 (Whereupon, Exhibit  
18 Marks-962, No Bates, Baker Tilly  
19 Invoices, was marked for  
20 identification.)

21 - - -

22 BY MR. CARTER:

23 Q. And, Mr. Marks, if you can,  
24 can you just review those and let me know

1 if those are, in fact, invoices issued by  
2 Baker Tilly for your firm's work in this  
3 matter?

4 A. That's a Baker Tilly  
5 invoice, yes.

6 Q. Well, there's a bunch of  
7 them, if you can scroll through all of  
8 them.

9 MR. GOETZ: I would suggest  
10 that you download the exhibits on  
11 the share file.

12 THE WITNESS: I'm just  
13 having a problem getting through  
14 these, I apologize. They won't  
15 move.

16 Bear with me for one second.

17 BY MR. CARTER:

18 Q. Sure.

19 A. Okay. I got it to work.  
20 Thank you. Thank you for your patience.  
21 I appreciate it.

22 Q. Sure.

23 A. And, Mr. Carter, you'd like  
24 me to review these?

1           Q.     Yes. I'd like you to just  
2 confirm that those are all invoices that  
3 Baker Tilly issued for its work on behalf  
4 of the WAMY defendants in this case.

5           A.     Bear with me while I look  
6 through them.

7                     Mr. Carter?

8           Q.     Yes.

9           A.     I've scanned through these,  
10 and I believe they are our invoices.  
11 They also seem to be account statements  
12 as well.

13          Q.     And I'll get into that in a  
14 second.

15                     But the invoices, as I see,  
16 are dated from February 19th, 2020, and  
17 the last one is September 24, 2020.

18                     Am I correct there would be  
19 some additional time for the work you  
20 recently did in preparation for the  
21 deposition that's not reflected in these?

22          A.     That is accurate, yes.

23          Q.     Do you have -- do you have  
24 any sense of what the additional charges,

1 beyond those reflected in these invoices,  
2 would add up to?

3 A. I believe our work in  
4 process is approximately \$80,000, yes.

5 Q. And during what time period  
6 did that \$80,000 accrue?

7 A. I don't have the specific  
8 date ranges, but it's probably over the  
9 last four months.

10 Q. So there are additional  
11 charges over the last four months that  
12 aren't encompassed by the invoices and  
13 supporting documents I have here?

14 A. That's correct.

15 Q. And were there bills sent  
16 out over the last four months --

17 A. No.

18 Q. -- for that work?

19 Did you say no?

20 A. That's correct.

21 Q. So none of that work has  
22 been invoiced as of this date?

23 A. It was just recently  
24 invoiced.

1 Q. When?

2 A. I believe -- I think it was  
3 last week or the week before.

4 MR. CARTER: Fred, I don't  
5 have our agreement in front of me,  
6 but I think it would have  
7 encompassed production of that  
8 invoice as well. So if you can  
9 get that to us.

10 MR. GOETZ: If we have it,  
11 we'll send it to you.

12 MR. CARTER: Thanks.

13 MR. GOETZ: We'll just  
14 check -- at the break, we'll check  
15 the office in New York and see if  
16 they have them. And if they do,  
17 we'll send them.

18 MR. MOHAMMEDI: We're still  
19 working with Baker Tilly on the  
20 invoice. When that is finalized,  
21 we'll send that.

22 MR. CARTER: I think we're  
23 going to adhere to the view that  
24 the invoice should be produced in



1           its current form so that we can  
2           have an opportunity to talk to Mr.  
3           Marks about it, if appropriate.

4                       So we would ask you to do  
5           that at a break.

6                       MR. MOHAMMEDI: We don't  
7           have a description, that's why.  
8           We need a description for Baker  
9           Tilly. You will not be able to  
10          know exactly what the invoice is  
11          for. That's the reason.

12                      MR. CARTER: Unfortunately,  
13          Omar, I can't understand you well  
14          enough to know what you said.  
15          There's a problem with your audio.

16                      MR. GOETZ: We'll look at  
17          it, what we have, and send it to  
18          you. You'll find, I think, that  
19          it's just a gross amount without  
20          any breakdown.

21                      But if we have an invoice,  
22          we'll provide it, consistent with  
23          our protocol, in terms of what we  
24          have.

1                   Now, whether or not we're  
2                   talking to Mr. Tilly about that is  
3                   another issue, but we'll send you  
4                   what we have.

5                   MR. CARTER: And just --  
6                   when we do take a break, if we can  
7                   try and somehow improve the audio  
8                   for you, Fred, and for Omar,  
9                   because I'm having terrible  
10                  difficulty understanding what  
11                  you're saying. So it's hard to  
12                  respond.

13                  MR. GOETZ: We'll work on  
14                  it.

15                  MR. CARTER: Thanks.

16 BY MR. CARTER:

17                  Q. Mr. Marks, just turning back  
18                  to this exhibit and using the invoice  
19                  that was sent out on February 19th, 2020,  
20                  as an example, is it fair to say that the  
21                  sort of invoicing convention here is that  
22                  the Page 1, which is on the right, right  
23                  now, not the one that's on the screen,  
24                  provides a sort of total statement of the

1 charges, correct?

2 A. Yes.

3 Q. And then the second page  
4 behind that includes an overview of the  
5 individuals who billed time during the  
6 relevant period and the total number of  
7 hours and rate charged?

8 A. Correct.

9 Q. And then behind that there  
10 are details regarding the daily time  
11 descriptions relating to the work  
12 performed by those individuals?

13 A. That's correct.

14 Q. And that's true for all of  
15 the invoices we have in this collection,  
16 correct?

17 A. I believe so, yes. Based on  
18 my review, yes.

19 Q. Based on our review of these  
20 invoices, we understand that through the  
21 date covered by these invoices, Baker  
22 Tilly billed WAMY a total of \$379,907.93,  
23 and that was after an approximately  
24 \$36,000 discount.

1 Does that sound right?

2 A. I did not add it up, sir.

3 But I believe it sounds close, yes.

4 Q. And with the additional  
5 approximately \$80,000 that you referenced  
6 related to more recent work, the total  
7 billings would be in the range of  
8 \$480,000?

9 A. That's correct.

10 Q. And I believe you said  
11 earlier there were approximately 12  
12 individual timekeepers who billed time  
13 for work on this project; is that  
14 correct?

15 A. I believe that's what I  
16 said, yes.

17 Q. And based on my review, it  
18 appears that the total hours you billed  
19 during the period covered by these  
20 invoices that we've marked as an exhibit  
21 was 91.75 hours.

22 Does that sound right?

23 A. That's what's recorded on  
24 the time sheets, yes.

1           Q.     And just turning to the time  
2     sheets specifically, the first invoice,  
3     dated February 19th, 2020, includes a  
4     total of two hours for you?

5           A.     Yes.

6           Q.     And those two hours all  
7     pertain to a meeting you had with Mr.  
8     Mohammedi, correct?

9           A.     I believe so, yes.

10          Q.     And the next invoice, dated  
11     March 5, 2020, records two and-a-half  
12     hours of total time for you, correct?

13          A.     Yes.

14          Q.     And you describe that as  
15     related to coordinating access and review  
16     of preliminary information, communication  
17     with staff, correct?

18          A.     I can't see the description.  
19     I apologize.

20          Q.     Sorry. It's on Page 3 of  
21     this particular invoice.

22                   MR. GOETZ: Mr. Marks, you  
23                   can download the document if  
24                   that's better for you to see.

1 THE WITNESS: Yes. That's  
2 what it says.

3 BY MR. CARTER:

4 Q. And just as a -- as a  
5 baseline proposition, as a large  
6 accounting firm, am I correct that Baker  
7 Tilly requires its personnel to record  
8 their time accurately?

9 A. We try our best, yes.

10 Q. And does it require  
11 employees to include accurate  
12 descriptions of the work that they  
13 performed?

14 A. It requires them to provide  
15 some general semblance of what tasks they  
16 provided, yes.

17 Q. And that semblance should be  
18 accurate, correct?

19 A. I would hope it would be,  
20 yes.

21 Q. And you personally adhere to  
22 those requirements, correct?

23 A. Again, I try my best, yes.

24 Q. Turning to the invoice --

1 the next invoice which is dated March  
2 27th, 2020, and going to the summary of  
3 the involved timekeepers, which is Page  
4 2.

5 MR. CARTER: The prior page,  
6 I'm sorry.

7 BY MR. CARTER:

8 Q. There was no time reflected  
9 on this invoice for you, correct?

10 A. That's correct.

11 Q. And turning next to the  
12 April 2, 2020, invoice, there are --  
13 again, there was no time recorded for any  
14 work by you on the project during the  
15 period covered by that invoice, correct?

16 A. That's correct.

17 And you're going to probably  
18 see no time recorded for me in the  
19 following month as well, probably.

20 Q. Well, let's do it one by  
21 one.

22 The invoice dated May 11,  
23 2020, does not reflect any work performed  
24 by you during the month covered by that

1 invoice, correct?

2 A. It does not.

3 Q. And the invoice dated June  
4 11, 2020, likewise, does not indicate any  
5 work by you during the period covered by  
6 that invoice, correct?

7 A. Correct.

8 Q. And then turning to the July  
9 22, 2020, invoice, you're -- there's an  
10 indication that you spent 35  
11 and-a-quarter hours working on the  
12 project during that month, correct?

13 A. That's what it says, yes.

14 Q. And then there are details  
15 on Page 4 describing the nature of the  
16 work that you performed.

17 Do you see the entries  
18 associated with your name?

19 A. I do.

20 Q. And as I read those entries,  
21 they all pertain to the drafting of the  
22 report and discussions; is that correct?

23 A. That's what it says, yes.

24 Q. And there are entries here



1 and elsewhere for other individuals at  
2 Baker Tilly relating to the drafting and  
3 revision of the report, correct?

4 A. I don't know what you're  
5 referring to. Other -- I don't know -- I  
6 can only see what's on the screen.

7 Q. Well, if you look, there's  
8 an entry, the third name down, there's an  
9 entry for P. Zikmund, and it's described  
10 as, Report preparation.

11 Do you see that?

12 A. I do.

13 Q. And then there's another for  
14 him to update the report.

15 Do you see that?

16 A. Yes.

17 Q. And a third for him, update  
18 the report, and then a fourth and a  
19 fifth.

20 So there are entries for --  
21 several entries for other people, in this  
22 case, Mr. Zikmund, related to the report,  
23 correct?

24 A. Correct.

1 Q. And the report referenced  
2 there, is that your rebuttal report in  
3 this matter?

4 A. It is.

5 Q. And turning to the invoice  
6 from September 24, 2020, the second page  
7 indicates that you spent a total of 52  
8 hours working on the project during the  
9 two months covered by that invoice; is  
10 that correct?

11 A. That's what it says, yes.

12 Q. And then looking at the  
13 individualized time description entries,  
14 there's a number, as you'll see on Page 4  
15 of 7 of this invoice, associated with  
16 you, referring to rebuttal report prep,  
17 draft, draft, rebuttal report prep,  
18 rebuttal report prep.

19 Do you see those?

20 A. I do.

21 Q. And there are entries for a  
22 number of other people that reference the  
23 report as well.

24 Do you see that?

1                   Three entries, for instance,  
2   for Mr. Goldberg right at the top of the  
3   report.

4           A.     Yes.

5           Q.     And a number of entries for  
6   Mr. Zikmund again, with report; is that  
7   correct?

8           A.     Yes, sir.

9           Q.     And entries -- an entry for  
10   Mr. Scaccia for report revisions, and  
11   several for Mr. Goldberg, correct?

12          A.     Yes, sir.

13          Q.     And one for Dardani?

14          A.     That's correct.

15          Q.     And then turning to the next  
16   page of this particular invoice, there  
17   are entries associated with your name,  
18   and a few of them reference, Review  
19   documents. There is an entry for 1.25  
20   hours associated with your name,  
21   several -- a few entries for 4.25 hours  
22   that include, among other work,  
23   references to your involvement in  
24   reviewing documents.

1 Do you see those?

2 A. Yes.

3 Q. By my calculation, this  
4 invoice indicates only 14 hours were  
5 spent on any work that you describe as  
6 involving review of documents.

7 Does that sound correct?

8 A. That's what the time sheet  
9 says, yes.

10 Q. And reviewing all of the  
11 other invoices, I have not seen any other  
12 time entries on your behalf that  
13 reference any involvement by you in  
14 reviewing documents.

15 Does that sound correct?

16 MR. GOETZ: Objection.

17 Form.

18 THE WITNESS: There's  
19 nothing on those invoices, no.  
20 That's correct.

21 BY MR. CARTER:

22 Q. And when was your report  
23 issued?

24 A. August 7th, 2020.

1           Q.     So these invoices encompass  
2 all of the time invested by you up to the  
3 date of the issuance of the report,  
4 correct?

5           A.     Well, not all the time. I  
6 did not record all of my time.

7           Q.     Why did you not record all  
8 of your time?

9           A.     There are -- we have various  
10 discussions throughout the -- you know,  
11 these types of projects, these  
12 investigations, and a lot of times  
13 that -- when I have discussions with my  
14 staff when we're doing a project or a  
15 litigation assignment like this, I did  
16 not record all of my time.

17          Q.     So you may not have recorded  
18 some time associated with discussions  
19 with your staff, correct?

20          A.     There were a lot of  
21 discussions with my staff, Mr. Carter.

22          Q.     But just to be clear, the  
23 total time that describes any involvement  
24 on your part in reviewing documents is 14

1 hours, correct?

2 A. If that's what it says, then  
3 that's correct.

4 Q. And all of the 14 hours that  
5 include descriptions of reviewing  
6 documents are included in the September  
7 4, 2020, invoice covering the period July  
8 1, 2020, through August 31, 2020.

9 Does that sound accurate?

10 A. It does.

11 Q. And the invoice for the  
12 prior period covering June 1, 2020,  
13 through June 30, 2020, indicates that you  
14 were already involved, during that  
15 period, in preparing your report,  
16 correct?

17 A. Right.

18 Q. So according to the invoices  
19 that we have, you began working on your  
20 report before you entered any time for  
21 reviewing any documents, correct?

22 A. Well, part of putting my  
23 report together would be reviewing  
24 documents, so, yes.

1           Q.     Why would you have included  
2     entries in the invoice from September  
3     2020 describing your work as reviewing  
4     documents and not include a similar  
5     description for reviewing documents in  
6     earlier invoices?

7           A.     I don't know.

8           Q.     Do you have any idea how  
9     much time you actually spent, prior to  
10    issuance of your report, reviewing  
11    documents?

12                   MR. GOETZ:  Objection.  
13                   Form.

14                   THE WITNESS:  Since we  
15                   started in -- since we started in,  
16                   I would say, the end of January,  
17                   beginning of February, it was an  
18                   ongoing process.

19   BY MR. CARTER:

20           Q.     Well, you have a total of 91  
21     hours, the vast majority of which are  
22     described as relating to the preparation  
23     of your report, and only 14 of which are  
24     described as involving, in any way, work

1 associated with reviewing documents,  
2 correct?

3 A. Right.

4 MR. GOETZ: Object to the  
5 form.

6 MR. CARTER: And if we can  
7 mark as the next exhibit the  
8 reliance materials described or  
9 identified as having been  
10 considered by you.

11 - - -

12 (Whereupon, Exhibit  
13 Marks-963, No Bates, Jonathan  
14 Marks: Appendix B: Documents  
15 Considered, was marked for  
16 identification.)

17 - - -

18 MS. INT-HOUT: Sorry, Sean,  
19 what tab number would that be?

20 MR. CARTER: Tab 4.

21 MS. INT-HOUT: Thank you.

22 THE WITNESS: Would you mind  
23 if I went to the bathroom real  
24 quick? I apologize.



1 MR. CARTER: No, that's  
2 fine.

3 THE WITNESS: You sure?

4 MR. CARTER: Yes. How long  
5 do you need?

6 THE WITNESS: Just a couple  
7 of minutes. I just want to run  
8 down the hall and go to the  
9 bathroom.

10 MR. CARTER: Okay. Should  
11 we take five minutes?

12 MR. GOETZ: Sounds good.  
13 Thank you.

14 THE WITNESS: Thank you.

15 VIDEO TECHNICIAN: We're  
16 going to go off the record, 10:11  
17 a.m.

18 - - -

19 (Whereupon, a brief recess  
20 was taken.)

21 - - -

22 VIDEO TECHNICIAN: Back on  
23 the record at 10:19 a.m.

24 BY MR. CARTER:

1           Q.     Mr. Marks, we just marked as  
2     an exhibit the appendix to your report  
3     identifying materials considered.

4                     Do you know who prepared  
5     this document?

6           A.     Sorry, I'm just pulling it  
7     up.   There we go.

8                     Okay.   I have it up now.   I  
9     apologize.

10          Q.     Do you know who prepared  
11     this document?

12          A.     Yes.

13          Q.     Who prepared it?

14          A.     This was prepared by us in  
15     regard to this particular matter.

16          Q.     And did you yourself review  
17     all of the documents listed in this  
18     appendix?

19          A.     No.   The way -- well, no.   I  
20     work with a team.   The way -- the way  
21     this matter worked was I had -- as I said  
22     to you before, I believe there were 12  
23     people on our team, and I led, you know,  
24     this particular effort.

1                   And there are a lot of  
2 people that reviewed a lot of different  
3 documents. And the way the process  
4 works, under my direct supervision, is,  
5 you know, I lay out the methodology and,  
6 you know, as we go through and -- as we  
7 go through the matter, I'm involved in --  
8 every step of the way. And my team  
9 reviews information and then brings it to  
10 me, you know, I ask questions and they go  
11 back and bring me more information.

12                   But that's generally the way  
13 it works. So we work as a team.

14               Q.     So this is a list of  
15 documents reviewed by your team, not by  
16 you personally?

17               A.     I reviewed -- yes, that's  
18 correct.

19               Q.     And so you relied on other  
20 members of your team to review and  
21 analyze the documents on this list,  
22 correct?

23               A.     Yes.

24               Q.     And the total time reflected

1 in the invoices for you reviewing  
2 documents was 14 hours, correct?

3 MR. GOETZ: Objection.

4 Form.

5 THE WITNESS: We went  
6 through this. Yes, that's what it  
7 says on the time sheets. Yes.

8 BY MR. CARTER:

9 Q. Do you know how many  
10 documents you personally actually  
11 reviewed --

12 A. I don't.

13 Q. -- prior to the issuance of  
14 your report?

15 A. I don't.

16 Q. Well, did you review tens of  
17 thousands of documents or fewer?

18 A. We reviewed -- we reviewed a  
19 lot of documents. I don't know the exact  
20 amount.

21 Q. I'm not asking whether we,  
22 "we" meaning Baker Tilly, reviewed.

23 I'm asking whether you  
24 reviewed tens of thousands of documents?

1           A.     I wouldn't say I reviewed  
2     tens of thousands of documents, no. Like  
3     I said, that's not the process that we  
4     went through -- go ahead.

5           Q.     So you review -- you relied  
6     on other people to review documents and  
7     they provided their analysis to you; is  
8     that correct?

9           A.     Yes.

10          Q.     And how did they provide  
11     that analysis to you?

12          A.     We would have regular and  
13     ongoing discussions.

14          Q.     And did they provide any  
15     summaries to you relating to their  
16     review, analysis or findings?

17          A.     I'm sure they summarized it  
18     to me, otherwise -- yes. Absolutely,  
19     yes. They summarized information for me.

20          Q.     And so you relied on those  
21     summaries for purposes of developing your  
22     opinions and writing your report,  
23     correct?

24          A.     I relied on those summaries

1 to evaluate whether I believed that those  
2 were complete and accurate. And if I  
3 thought that we needed more information,  
4 I would -- I asked my staff to go back  
5 and get me more details.

6 So placing reliance on them,  
7 it all depended on many different  
8 factors.

9 Q. Well, you considered them in  
10 the context of developing your opinions  
11 and report in the case, correct?

12 A. Yes.

13 Q. And do you list any of those  
14 summaries or any analyses provided by  
15 your staff in the documents considered  
16 section of your report?

17 MR. GOETZ: Objection.

18 Form.

19 THE WITNESS: I don't have  
20 any written summaries. So the  
21 answer to that is no.

22 BY MR. CARTER:

23 Q. Well, they didn't provide  
24 you any information in writing relating

1 to their review of the documents?

2 A. No. It was all done through  
3 meetings and discussions.

4 Q. And you were able to assess  
5 the competence and quality of the review,  
6 by a dozen employees, of tens of  
7 thousands of documents based on verbal  
8 communications at meetings?

9 A. Yes.

10 Q. And you didn't feel the need  
11 to have anyone put any of their analysis  
12 down in writing so you could study it and  
13 make sure you thought it was accurate?

14 A. I'm just telling you how it  
15 worked. We had conversations about the  
16 documents. If I thought that they  
17 were -- if I thought -- if I understood  
18 what it was that they were trying to say,  
19 that was fine.

20 If not, if I needed more  
21 information or required more information,  
22 or there was something that I wanted to  
23 be looked into further, then that's what  
24 we did.

1 But I do not have anything  
2 written in the form of any analysis, no.

3 Q. And individuals on your  
4 staff also billed time for participating  
5 in the drafting of the report, correct?

6 A. They helped, yes, when I had  
7 questions. And that's why it says  
8 drafting of the report.

9 I drafted the report.

10 Q. Well, there are significant  
11 time entries, Mr. Marks, for other  
12 individuals described as related to the  
13 drafting of the report. They are not  
14 incidental entries.

15 Can you explain that?

16 MR. GOETZ: Objection.

17 Form.

18 THE WITNESS: I can explain  
19 the process, sure.

20 Would you like me to explain  
21 the process?

22 BY MR. CARTER:

23 Q. Well, no.

24 I'd like you to explain why,



1 if you drafted the reports, there are a  
2 significant number of hours invoiced by  
3 other individuals at your firm for  
4 drafting the report.

5 MR. GOETZ: Objection.  
6 Form.

7 THE WITNESS: Again, I can  
8 explain the process if you'd like.

9 MR. GOETZ: Just explain the  
10 process.

11 THE WITNESS: So the way it  
12 works is I draft the report and  
13 others actually help me by  
14 providing me with their thoughts,  
15 their ideas on certain documents  
16 that we looked at, and they answer  
17 my questions.

18 But that's all part of the  
19 report-drafting process. This is  
20 not something that's out of the  
21 normal for the engagements that  
22 we -- as a matter of fact, it's  
23 very common.

24 BY MR. CARTER:

1 Q. Well, I mean, this is a  
2 litigation engagement, it's not an audit  
3 or forensic accounting engagement.

4 And so I'm trying to  
5 understand exactly who was responsible  
6 for the review and drafting of your  
7 report within Baker Tilly.

8 A. I think I answered that.

9 MR. GOETZ: Objection.

10 Form.

11 THE WITNESS: I believe I  
12 answered that question. I told  
13 you I was.

14 BY MR. CARTER:

15 Q. So if we can just turn back  
16 to the September 24 invoice as an  
17 example, and go to Page 4.

18 A. Is that Exhibit-962? I just  
19 want to pull it up on my screen.

20 MR. GOETZ: It is 962, Page  
21 34 of the PDF.

22 THE WITNESS: Give me a  
23 moment to get there.

24 BY MR. CARTER:

1           Q.     And just to run through  
2     these, the first entry indicates that Mr.  
3     Goldberg spent two hours on the report;  
4     and then there's another entry for him  
5     for two hours on the report; and another  
6     entry by him for two hours on the report;  
7     and below that there's another entry for  
8     Mr. Goldberg for two hours on the report;  
9     an entry for 1.5 hours for Mr. Zikmund on  
10    the report; another three hours for Mr.  
11    Goldberg on the report; a 3-hour entry  
12    for Mr. Scaccia on update of the report;  
13    a two-hour entry for Mr. Zikmund on the  
14    report; a two-hour entry for Mr. Goldberg  
15    on the report; a five-hour entry for Mr.  
16    Scaccia for report revisions; a  
17    one-and-a-half-hour entry for Mr. Zikmund  
18    on the report; a six-hour entry by Mr.  
19    Goldberg on the report; a 5.1-hour entry  
20    for Ms. Dardani related to preparation of  
21    the report; a 10-hour -- I'm sorry, a  
22    4-hour entry for Mr. Goldberg described  
23    as report re-work; and another entry of 5  
24    hours for Mr. Goldberg described as

1 report framework; and another entry at  
2 the bottom for Mr. Goldberg for 10 hours  
3 for report.

4 That seems to be quite a bit  
5 of time for people simply providing  
6 recommendations to you on the report; do  
7 you agree?

8 MR. GOETZ: Objection.  
9 Form.

10 THE WITNESS: I don't agree.  
11 BY MR. CARTER:

12 Q. Well, this is just one page,  
13 there are other pages with similar  
14 entries.

15 Can you -- again, can you  
16 explain to me why there's so much time  
17 reflected in these invoices for people  
18 other than you described as related to  
19 the drafting of the report?

20 MR. GOETZ: Objection.  
21 Form.

22 THE WITNESS: You're  
23 assuming that they're drafting the  
24 report. I had mentioned to you

1           before -- actually, I stated to  
2           you before, and testified, that I  
3           drafted the report and that, you  
4           know, when I have questions or  
5           when I have other things that need  
6           to be done, they help me as part  
7           of -- as part of our team.

8       BY MR. CARTER:

9           Q.       Well, I mean, some of the  
10          entries actually are described. For  
11          instance, the one for Mr. Goldberg is the  
12          report re-draft --

13          A.       Right.

14          Q.       -- at the bottom.

15                    So that involves Mr.  
16          Goldberg's involvement in re-drafting the  
17          report, correct?

18          A.       No.

19                    MR. GOETZ: Objection to  
20          form.

21                    Go ahead and answer the  
22          question.

23                    THE WITNESS: No. It meant  
24          that I went through the report and

1 I had a lot of different questions  
2 and asked for things to be done in  
3 a different way, and he helped  
4 with the re-drafting of the  
5 report. It doesn't mean that he  
6 wrote the report.

7 BY MR. CARTER:

8 Q. Okay. So your testimony is  
9 that the entries we see in all of these  
10 invoices for other individuals from Baker  
11 Tilly that refer to report, drafting of  
12 the report and preparation of the report  
13 did not actually involve any work by them  
14 in drafting the report; is that correct?

15 A. Repeat what you just said.  
16 I just want to understand it clearly.

17 MR. CARTER: Can we read it  
18 back to him?

19 THE WITNESS: Yes, please.

20 - - -

21 (Whereupon, the court  
22 reporter read the following part  
23 of the record:

24 "Question: So your

1           testimony is that the entries we  
2           see in all of these invoices for  
3           other individuals from Baker Tilly  
4           that refer to report, drafting of  
5           the report and preparation of the  
6           report did not actually involve  
7           any work by them in drafting the  
8           report; is that correct?")

9                               -   -   -

10                           MR. GOETZ:  Objection.

11                           Form.

12                           THE WITNESS:  Like I said, I  
13           drafted the report.

14  BY MR. CARTER:

15                   Q.       And no one at Baker Tilly  
16   had any involvement in providing any  
17   written communications or summaries or  
18   language that you incorporated into your  
19   report?

20                   A.       No.  That's correct.

21                   Q.       What did you instruct the  
22   members of your team to do at the outset  
23   of the project?

24                   A.       I instructed my team

1 members, at the outset of the project, to  
2 review the allegations and to work with  
3 me as I laid out a methodology and a plan  
4 for analyzing the financial information.

5 Q. Did you instruct them to  
6 attempt to identify any audits or  
7 financial records that should exist but  
8 that you couldn't identify in the  
9 materials that were provided?

10 MR. GOETZ: Objection to  
11 form.

12 THE WITNESS: I'm not sure  
13 what you're asking me, Mr. Carter.

14 BY MR. CARTER:

15 Q. Well, did you ask them to  
16 catalogue, for instance, audits that you  
17 would have expected to see but that  
18 weren't within the materials that were  
19 provided?

20 A. No.

21 MR. GOETZ: Objection to  
22 form.

23 BY MR. CARTER:

24 Q. During the course of the



1 review, did you or any members of your  
2 team identify any records that you would  
3 have expected to see but that had not  
4 been provided?

5 A. I had all of the information  
6 that I thought was necessary in order to  
7 form the opinions that are laid out in my  
8 report.

9 Q. That's not the question I  
10 asked.

11 A. Okay. Then I'm sorry, I  
12 misunderstood what you said.

13 Can you just try to rephrase  
14 it for me so I do understand it?

15 Q. Did you or any members of  
16 your team identify any records that you  
17 would have expected to see but that had  
18 not been provided?

19 MR. GOETZ: Objection to  
20 form.

21 THE WITNESS: I didn't know  
22 what to expect to see. So, you  
23 know, we did our -- we did our  
24 search through the database

1           accordingly to try to find what we  
2           could.

3       BY MR. CARTER:

4           Q.     Well, I mean, you do have an  
5     understanding of what types of audits and  
6     financial documents an organization  
7     exercising best practices would normally  
8     have in its files, correct?

9                     MR. GOETZ:  Objection.

10           Form.

11                    THE WITNESS:  Best practices  
12     based on what?

13       BY MR. CARTER:

14           Q.     Well, best practices based  
15     on an organization that's implementing  
16     rigorous and adequate financial controls.

17                    MR. GOETZ:  Objection.

18           Form.

19                    THE WITNESS:  Every  
20     organization --

21       BY MR. CARTER:

22           Q.     Say -- go ahead.

23           A.     Every organization is  
24     different.

1           Q.     So did you request any  
2 additional information from WAMY that you  
3 thought was relevant to your analysis but  
4 had not been provided?

5           A.     No.

6           Q.     Now, in your report, you  
7 reserved your right to supplement and  
8 prepare charts.

9                     Have you done anything of  
10 that nature?

11          A.     I haven't supplemented  
12 anything to my report as of today.

13          Q.     And just going back and  
14 turning to your report, briefly.

15                     On Page 6 --

16          A.     Yes.

17          Q.     -- at the top, it says,  
18 Based upon my review and analysis of the  
19 tens of thousands of primary source  
20 documents and other information produced  
21 in connection with this matter, I have  
22 not uncovered evidence to support a  
23 finding of financial mismanagement or  
24 misconduct indicative of terrorist

1 financing activities on behalf of WAMY.

2 Do you see that?

3 A. I do.

4 Q. Do you agree with me, based  
5 on your testimony earlier, that you did  
6 not review tens of thousands of primary  
7 source documents?

8 A. Well --

9 MR. GOETZ: Objection to  
10 form.

11 THE WITNESS: -- I think I  
12 already -- I explained that "my"  
13 means me and my team.

14 BY MR. CARTER:

15 Q. Well, Mr. Marks, in  
16 fairness, at the beginning of your  
17 report, on Page 1, you specifically  
18 indicate that the terms "I" and "my"  
19 refer to you and that "we" and "us" refer  
20 to Baker Tilly.

21 Do you see that?

22 A. Yep. I do see that.

23 I apologize. So it probably  
24 should read, Based on our review and

1 analysis.

2 Q. And there are various places  
3 in your report where you use the  
4 convention "I did something" and other  
5 places where you say "we did something."

6 Am I correct in  
7 understanding that where you use the term  
8 "I," you intend to denote work that you  
9 personally did and where you use the term  
10 "we," you're describing work that was  
11 done by your team?

12 MR. GOETZ: Objection.  
13 Form.

14 THE WITNESS: I don't know  
15 that to be fact, no.

16 BY MR. CARTER:

17 Q. Well, at times in your  
18 report, you refer to "our review."

19 That would refer to the  
20 review of your team and not you  
21 personally, right?

22 A. Yes. I would have to go  
23 back and re-look, but, yes.

24 Q. And then -- apologies.

1 BY MR. CARTER:

2 Q. Yes.

3 Were you asked to perform a  
4 comprehensive review to identify any and  
5 all red flags relating to WAMY and its  
6 branch offices during the period in  
7 question?

8 A. We were asked to perform a  
9 review.

10 Q. And as part of that review,  
11 were you asked to identify any things  
12 that you saw as potential red flags?

13 A. We were.

14 Q. And did you develop a  
15 comprehensive list of things that you saw  
16 as red flags?

17 A. That list would be small.

18 Q. Okay. But did you develop  
19 one?

20 A. Not a formal list, no.

21 Q. On that same page of your  
22 report, you say that the opposing experts  
23 are not auditors, accountants, financial  
24 experts, certified fraud examiners or

1 something -- there might have been some  
2 precipitating event. I just don't know.

3 But I do know that based on  
4 my internal control experience, based on  
5 my review of charitable organizations,  
6 based on my overall audit experience,  
7 based on my forensic skills and  
8 capabilities, that organizations that do  
9 this are very, very rare.

10 And, like I said, the fact  
11 that they actually did this is somewhat  
12 commendable.

13 MR. CARTER: If we can, I'd  
14 just like to mark as the next  
15 exhibit the article at Tab 10.

16 - - -

17 (Whereupon, Exhibit  
18 Marks-970, No Bates, A Violation  
19 of Trust: Fraud Risk in Nonprofit  
20 Organizations, Marks, was marked  
21 for identification.)

22 - - -

23 BY MR. CARTER:

24 Q. Mr. Marks, is this an

1 article that you authored?

2 A. Yes. Absolutely is.

3 Q. Okay. And am I correct that  
4 it concerns fraud risk in nonprofit  
5 organizations?

6 A. It actually does fraud risk  
7 in not-for-profit organizations. It also  
8 applies to for-profit organizations.

9 But, yes, that's what it is  
10 written for. Yes.

11 Q. And just on Page 4 of 11 --

12 A. Is this an exhibit, Mr.  
13 Carter?

14 Q. Yes, it is.

15 A. Hold on one second.

16 Go ahead.

17 Q. And towards the bottom of  
18 Page 4 of this document, you identify a  
19 list of common warning signals or red  
20 flags of potential fraud?

21 A. Yes.

22 Q. And in the section under  
23 data, you identify as a red flag accounts  
24 with many large round numbers or



1 transactions that are unusually large or  
2 small, correct?

3 A. Yes.

4 Q. And on the next page -- I'm  
5 sorry, on Page 6, you identify the  
6 failure to reconcile accounts in a timely  
7 manner as a red flag, correct?

8 A. On Page 6? Yes.

9 Q. And you include that in a  
10 section on lack of controls, correct?

11 A. Correct.

12 MR. CARTER: Mr. Marks,  
13 that's all I have at the moment,  
14 but I believe my colleague, Mr.  
15 Haefele, has some brief follow-up.

16 THE WITNESS: Well, I have a  
17 couple -- I want to respond to  
18 this.

19 MR. CARTER: I don't have  
20 any questions pending. If you  
21 want to do something with this,  
22 your counsel can ask you  
23 questions, Mr. Marks.

24 But we are going to move on

1 with our questions.

2 THE WITNESS: Well, Mr.  
3 Carter, that's not fair. Because  
4 you just laid out things in an  
5 article, and you didn't allow me  
6 to explain at all.

7 MR. CARTER: Mr. Marks, I  
8 asked you straightforward  
9 questions. I was just trying to  
10 get you to verify that you wrote  
11 the article.

12 I don't have any further  
13 questions. Your counsel can  
14 follow up with you and is  
15 responsible for doing that if  
16 appropriate.

17 THE WITNESS: Okay. Sorry.

18 MR. HAEFELE: Do you want to  
19 take a break or are we good to go  
20 on?

21 Fred, I can't hear you.

22 MR. CARTER: Fred, no one  
23 can hear you.

24 MR. GOETZ: What's our run

1 time, David?

2 VIDEO TECHNICIAN: Five  
3 hours and 13 minutes.

4 MR. GOETZ: I'm sorry, say  
5 it again.

6 VIDEO TECHNICIAN: Five  
7 hours and 13 minutes.

8 MR. GOETZ: We're good to go  
9 for a little bit. That's fine.

10 MR. HAEFELE: All right.  
11 Great.

12 - - -

13 EXAMINATION

14 - - -

15 BY MR. HAEFELE:

16 Q. Mr. Marks, my name is Robert  
17 Haeefe. I'm another one of the lawyers  
18 that represents the plaintiffs in this  
19 litigation. Thank you for taking the  
20 time with us. I appreciate it.

21 A. How are you, Mr. Haeefe?

22 Q. I'm well. Thanks.

23 And just, are you good to go  
24 on?

1 A. Absolutely.

2 Q. All right. Terrific.

3 MR. HAEFELE: I'm going to  
4 ask if we could pull up what was  
5 previously marked as Exhibit-962.

6 BY MR. HAEFELE:

7 Q. And, Mr. Marks, 962 is the  
8 Baker Tilly invoices that we marked  
9 earlier today.

10 Do you remember those?

11 A. Yes.

12 Q. All right. I'm going to ask  
13 if we could flip over to Page 3 for a  
14 moment.

15 MR. GOETZ: Robert, sorry to  
16 interject, but we did send that  
17 other invoice to counsel. So if  
18 you check your inbox, you should  
19 have that as well, just for your  
20 reference, if you're talking about  
21 this.

22 MR. HAEFELE: Thanks.

23 Actually, that's a good point.

24 I don't know if somebody

1 from Cozen's office can -- if I  
2 can ask them if they would load  
3 that to the file share for the  
4 technologist, please.

5 Is that possible, either  
6 Scott or Sean?

7 MS. INT-HOUT: You can  
8 actually load it directly in chat  
9 and I can grab it.

10 MR. HAEFELE: Okay.  
11 Actually, let's do that. Let's  
12 take a break at some point and do  
13 that. Let's keep going on now,  
14 though.

15 MR. CARTER: We just  
16 e-mailed it to her.

17 MR. HAEFELE: Great. Great.

18 BY MR. HAEFELE:

19 Q. So we're taking a look at  
20 Page 3 of Exhibit-962.

21 And do you see that, Mr.  
22 Marks?

23 A. Yes.

24 Q. I'm going to refer you, on

1 Page 3, there's a time entry there on  
2 January 31 for you for two hours.

3 And that's for your initial  
4 meeting with WAMY's lawyer, Omar  
5 Mohammedi, right?

6 A. Hold on one second. That's  
7 my Page 2.

8 Q. Yeah. Just so we're clear,  
9 I'm going to be referring -- hopefully,  
10 to make it easier for the technology  
11 people, I'm referring to the PDF page.

12 A. Okay. Hold on one second.

13 MR. GOETZ: For the record,  
14 I think I was at that meeting,  
15 too. I don't want to be left out  
16 here.

17 MR. HAEFELE: I have no idea  
18 what you're saying. Sorry.

19 MR. GOETZ: I think I was at  
20 that meeting, too. I don't want  
21 to be left out here.

22 MR. HAEFELE: All right. I  
23 think you're not, unfortunately,  
24 referenced on the time sheet. You

1                   were a super secret, Fred.

2                   MR. GOETZ: I'm a secret  
3                   agent, Robert.

4                   MR. HAEFELE: A spy.

5                   THE WITNESS: I'm sorry, Mr.  
6                   Haeefele.

7 BY MR. HAEFELE:

8                   Q.       The question right now is  
9                   the time entry there on January 31, 2020,  
10                  is two hours for your initial meeting  
11                  with WAMY lawyers, right?

12                  A.       Correct.

13                  Q.       And it indicates that you  
14                  had a meeting with Omar. And Mr. Goetz  
15                  is indicating he was there as well --

16                  A.       He was.

17                  Q.       -- as well as Paul Zikmund  
18                  and Melissa Dardani?

19                  A.       Yes.

20                  Q.       All right. And Melissa and  
21                  Paul are two people from Baker Tilly,  
22                  right?

23                  A.       Yes.

24                  Q.       All right. And the first

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1 time entry for any work on the WAMY  
2 project was January -- I'm sorry, January  
3 27th, 2020, the entry by Melissa Dardani  
4 to set up the project, and it was for  
5 half an hour, right?

6 A. That's what it says, yes.

7 Q. So that's -- the very first  
8 time entry is Ms. Dardani on January  
9 27th?

10 A. Correct.

11 Q. And I'm going to ask you to  
12 turn to Page 7 of the PDF, which is Page  
13 3 of 3 of your invoices from February  
14 2020. Let me know when you're there.

15 Are you there?

16 A. No, hold on one second. I'm  
17 trying to -- it just paused for one  
18 second, I apologize. It does that.

19 February 1st to February  
20 29th, 2020, we're on the same page.

21 Q. February 1st to February  
22 29th, right.

23 A. Yep.

24 Q. And this is the very next



1 set of invoices from the one we just  
2 looked at, right?

3 A. Yes.

4 Q. And it reflects the next set  
5 of billing after the initial meeting from  
6 January 2020, right?

7 A. Correct.

8 Q. And here we see two entries  
9 for you, one on 2/19 for an hour and a  
10 quarter and another one, 2/20, for the  
11 same amount, right?

12 A. Correct.

13 Q. So that's two and-a-half  
14 hours total on the 19th and 20th of  
15 February 2020, right?

16 A. Correct.

17 Q. And both entries for those  
18 two dates read the same, Coordinate  
19 access and review pre-lim information,  
20 communication with staff, right?

21 A. That's what it says, yes.

22 Q. And what were you doing to  
23 communicate access?

24 A. You mean coordinate access?

1 Q. I'm sorry. Yes.

2 What were you doing to  
3 coordinate access?

4 A. So coordinating access, so  
5 when we do a litigation matter, an  
6 investigation matter, what we do is, you  
7 know, we set up a protocol on how to  
8 access one another, and if there's  
9 information that we get from -- for  
10 example, that we download from an  
11 electronically stored database that we  
12 would consider, you know -- or I would  
13 consider in my report, we would just  
14 basically coordinate access and review of  
15 preliminary information.

16 The other thing that we  
17 generally do at that particular time is I  
18 go over -- I go over my investigative  
19 methodology, along with the access, so  
20 that everybody understands what that  
21 might be.

22 You know, for example, from  
23 an investigative methodological  
24 perspective, you know, and in this

1 particular matter, is coordinating  
2 access. The other part of the access is  
3 our publicly available databases.

4 So one of the things that we  
5 did in WAMY was every time we saw an  
6 individual's name, we ran them through  
7 the old fact database, we did some other  
8 LexisNexis searches. That coordinated  
9 access is all part of that in the very  
10 beginning.

11 You know, and then I go over  
12 all different parts of the investigative  
13 plan, for example, how to look at  
14 financial information, the document that  
15 you put up, the red flag document, the  
16 violation of trust, I shared with my  
17 staff. And I said, look, these are red  
18 flags here, these are things that we need  
19 to consider when we go through this, and,  
20 you know, basically, start to develop a  
21 plan of action.

22 And that's what happens in  
23 those particular meetings.

24 Q. And in this two and-a-half

1 hours the communication of -- the  
2 coordination of the access, you did the  
3 preliminary review of information and you  
4 communicated with your staff for that two  
5 and-a-half hours, right?

6 A. Yes.

7 Q. And in the 2/27 -- 2/27/2020  
8 time entry for Paul Zikmund, there's a  
9 reference to the WAMY team.

10 Do you have an understanding  
11 what, in the context of this project, the  
12 reference to WAMY team refers to?

13 A. Yes. So Paul is a director.  
14 He worked directly underneath me. He was  
15 my right hand at the time on this  
16 particular engagement.

17 So a lot of times I'll give  
18 a directive, and then he communicates  
19 with the team subsequent to our initial  
20 meetings to get --

21 Q. Let me -- let me clarify my  
22 question.

23 Throughout the time entries  
24 there is reference to the Baker Tilly

1 team and there is reference to the WAMY  
2 team.

3 My question is, is there an  
4 outside team that is a WAMY team and an  
5 inside Baker Tilly team that's the Baker  
6 Tilly team?

7 A. No. It's the same thing.

8 Q. And in the 2/28 entry --

9 A. Hold on. I'm sorry.

10 Q. In the 2/28 entry by Paul  
11 Zikmund, there's a reference to a call to  
12 A-M-I-R.

13 Who is that?

14 A. I don't know.

15 Q. And there's also a reference  
16 to -- never mind.

17 Looking at Page 10 of the  
18 PDF.

19 A. Hold on. I apologize, my  
20 PDFs are not numbered. So if you can  
21 give me the dates, that would just be  
22 easier.

23 I'm right with you now, Mr.  
24 Haefele.

1           Q.     It's the March 20 -- March  
2     1 -- it's the March time entries, time  
3     descriptions.

4           A.     I'm there.

5           Q.     All right. And looking at  
6     the entry for Yahya Soliman on 3/5/2020,  
7     there's a reference to the Baker Tilly  
8     team.

9                     That's the same of what we  
10    just talked about?

11          A.     Correct.

12                    And just to be clear, there  
13    was nobody outside of Baker Tilly that  
14    participated in this. Everybody was a  
15    Baker Tilly employee or, you know, member  
16    of Baker Tilly.

17          Q.     Well, to be fair, there's a  
18    number of references to conversations or  
19    meetings with outside -- with the WAMY  
20    lawyers, right?

21                    I mean, you spoke to the  
22    WAMY lawyers at some point, didn't you?

23          A.     I mean, you said -- I  
24    thought you implied before, like you said

1     that there were -- you know, were these  
2     people part of Baker Tilly. They're  
3     all -- yes, they are part of Baker Tilly.

4             Q.     There were weekly meetings  
5     or weekly conference calls.

6                     Were the weekly conference  
7     calls solely internally, or were there  
8     participants from the outside counsel,  
9     from Mr. Mohammedi's office or Mr.  
10    Goetz's office?

11            A.     Not on those calls, no.

12            Q.     Or on any calls?

13            A.     Mr. Mohammedi and Mr. Goetz?

14            Q.     Yes.

15                     Or someone from their  
16    office.

17            A.     No, not on our weekly calls.

18            Q.     Well, I meant on other  
19    calls.

20                     Were they on other calls?

21            A.     We've spoken to them  
22    throughout the engagement for sure.

23            Q.     All right. And looking at  
24    the PDF -- Page 30 of the PDF, which I'll

1 get to it and tell you what it is, the  
2 daily time descriptions for June of 2020.

3 A. Hold on one second. Let me  
4 get there.

5 Q. Page 4 of 4 of the June  
6 invoices.

7 A. Hold on.  
8 June. Okay.

9 Q. Do you see that there's a  
10 time entry on June 17th, 2020, a time  
11 entry by you referring to, quote, Report  
12 draft?

13 Do you see that?

14 A. Yes.

15 Q. And are you aware that this  
16 entry is the first time entry for your  
17 time since January of 2020 for  
18 coordinating access and the other stuff  
19 we just talked about?

20 A. Yes. And, like I said  
21 before, I didn't -- there were times  
22 where I just didn't record my time.

23 Q. How much time did you  
24 volunteer to do free for WAMY?



1           A.     I didn't volunteer to do  
2 anything free for WAMY. There were just  
3 insignificant amounts of time that I  
4 thought were just not appropriate to  
5 bill.

6           Q.     All right. So the amount of  
7 time between January and June 17th was  
8 insignificant, right?

9           A.     That's correct.

10          Q.     All right. And are you  
11 aware that the June 17 entry by you is  
12 also the first time entry for any work by  
13 you on the project to draft the report  
14 for WAMY?

15                 MR. GOETZ: Just to correct  
16 the record, Robert, you might have  
17 misspoke.

18                 You said there had been no  
19 references to time entered by  
20 Marks since January. We did cover  
21 references to time billed by Marks  
22 in February.

23                 THE WITNESS: Yeah, you did  
24 say that. I'm sorry.

1 MR. HAEFELE: I thought I  
2 said since February of 2020. The  
3 record should reflect that it's  
4 February of 2020.

5 I agree with you, there  
6 was -- the last reference to a  
7 time entry by Mr. Marks was in  
8 February 2020.

9 MR. GOETZ: We're on the  
10 same page, then.

11 MR. HAEFELE: That is what I  
12 thought I had said.

13 BY MR. HAEFELE:

14 Q. And are you aware -- so that  
15 we're clear, from the entry by you,  
16 February 20th of 2020, until June 16th,  
17 2020, there are no time entries for your  
18 time, correct?

19 A. Correct.

20 Q. And there is no reflection  
21 of any work being done by you to draft  
22 the report until June 16th, 2020,  
23 correct?

24 A. Correct.

1 Q. And now looking back at Page  
2 25, which is the time entries for May of  
3 2020, Page 3 of 4 of that invoice.

4 A. What's the date? I'm sorry,  
5 Mr. Haefele.

6 Q. May 2020, Page 3 of 4, and  
7 it's PDF Page 25 for those --

8 A. May what?

9 Q. Well, it's May 1 through May  
10 31.

11 A. Yeah, I have that up. I'm  
12 with you.

13 Q. Okay. And if we look at  
14 that page, at the bottom of the page you  
15 see an entry on 5/21 by Paul Zikmund  
16 indicating, Begin preparing report?

17 A. Yes.

18 Q. And do you see that the next  
19 entry on 6 -- I'm sorry, 5/26 by Steve  
20 Goldberg for, quote, Review -- I'm sorry,  
21 Report review, and, quote, Report  
22 writing?

23 A. Yes.

24 Q. And are you aware that these

1 two entries are the first two time  
2 entries making reference to any report?

3 A. Yes.

4 Q. All right. And are you  
5 aware that no previous time entry, before  
6 Mr. Goldberg's 5/26 entry, refers to  
7 writing the report?

8 A. Yes.

9 Q. If we could flip to the next  
10 page.

11 A. I'm here.

12 Q. You see there are entries  
13 there on 5/27 and 5/28 by Paul Zikmund  
14 referring to work on a, quote, Rebuttal  
15 report, right?

16 A. Yes.

17 Q. And looking back on Page 30,  
18 where we were before, a couple of pages  
19 later --

20 A. Page?

21 Q. It's going to be the June  
22 time descriptions.

23 A. Hold on one second. Let me  
24 get there.

1                   Okay. I'm in June.

2                   Q.     And looking to Page 30 of  
3     the report -- of the invoices, there is  
4     an entry on June 1 by Paul Zikmund for  
5     report preparation, right?

6                   A.     Right.

7                   Q.     And there's an entry on 6/2  
8     by Steve Goldberg for report review,  
9     right?

10                  A.     Yes.

11                  Q.     And there's a time entry on  
12     6/2 by Sara Musa for discussions with  
13     J.S., right?

14                  A.     Yes.

15                  Q.     Who is J.S.?

16                  A.     Hold on one second. John --  
17     I can never say his name -- Sakayev.

18                  Q.     Who is that?

19                  A.     He's one of our staff people  
20     in Dubai.

21                  Q.     And there's an entry on 6/3  
22     by Steve Goldberg for report follow-up,  
23     right?

24                  A.     Yes.

1 Q. And there's an entry on 6/3  
2 by Paul Zikmund for update report, right?

3 A. Yes.

4 Q. And there is a time entry on  
5 6/5 by Paul Zikmund to update report,  
6 right?

7 A. Yes.

8 Q. And there's a time entry on  
9 6/8 by Steve Goldberg for review of  
10 report, right?

11 A. Yes.

12 Q. And there is a time entry on  
13 6/8 by Paul Zikmund, on 6/8, to update  
14 report, right?

15 A. Yes.

16 Q. And there are three entries  
17 by Steve Goldberg, one on 6/12, another  
18 on 6/15 and another one 6/16 that simply  
19 reference report, right?

20 A. Correct.

21 Q. And there's an entry by Paul  
22 Zikmund on 6/15 to review and update WAMY  
23 report, right?

24 A. Yes.

1           Q.     And on 6/16, Paul Zikmund  
2 entered a time entry to revise final  
3 report, right?

4           A.     Yes.

5           Q.     And based on our  
6 calculations of the time entries, looking  
7 at just the time entries of Steve  
8 Goldberg and Paul Zikmund, they  
9 collectively entered 46.3 hours between  
10 May 21 and June 16th to the report.

11                     Does that amount sound right  
12 to you?

13          A.     I haven't added them up.  
14 I'll take your word for it.

15          Q.     All right. And all of those  
16 entries between May 21 and June 16 making  
17 reference to work on a report, including  
18 a reference to a revised final report,  
19 all predate your initial reference  
20 anywhere of drafting a report for WAMY,  
21 right?

22          A.     Yes.

23          Q.     All right. And turning to  
24 Page 35 of the PDF.

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1           A.     Just give me the date range,  
2     if you don't mind, because I don't have  
3     page numbers.

4           Q.     It's the July -- July daily  
5     time descriptions.

6           A.     All right. Hold on.

7           Q.     Page 5 of 7 of the July  
8     invoice.

9           A.     Go ahead.

10          Q.     And on 8/7/2020, that's the  
11     last time entry by you in these invoices,  
12     and it's an entry on August -- August  
13     7 -- I'm not sure if I said July --  
14     August 7, 2020, where the entry reads,  
15     Finalize the report, discussions with  
16     team, communication with counsel, right?

17          A.     Hold on one second. I  
18     can't -- finalize the report, discussions  
19     with team, communications with counsel,  
20     yes.

21          Q.     And that's the last time  
22     entry for any work you did on the report,  
23     right?

24          A.     Yes.



1 Q. And the reference to counsel  
2 there is Counsel Omar Mohammedi and/or  
3 Mr. Goetz, right?

4 A. Yes, sir.

5 Q. And looking at all the  
6 invoices collectively, from January 27th,  
7 2020, through the final time entry on  
8 August 28th, 2020, which is on the next  
9 page, where you are, looking at,  
10 collectively, all those invoices, by our  
11 calculations, the total hours spent on  
12 the report was 275.8 hours.

13 Does that sound about right?

14 A. I didn't add them up.

15 Q. Just so I'm clear with my  
16 statement here, I'm indicating all  
17 entries by people other than you to do  
18 work on the report.

19 A. Right.

20 Q. Does that sound about right,  
21 275.8?

22 A. I didn't add it up, like I  
23 said. I'll take your word for it.

24 Q. And looking at all the

1 invoices collectively, by our  
2 calculations, the total hours that you  
3 spent on the report, all between January  
4 17th, 2020, and August 7th, 2020, was  
5 78.5.

6 Does that sound about right?

7 A. Yep. About 80 hours.

8 That's about right.

9 Q. And looking back at your  
10 final time entry on Page 35, which might  
11 be what's on your screen, the entry on  
12 August 7th, do you see that entry?

13 A. I do.

14 Q. All right. And on August  
15 13th, 2020, six days after you last --  
16 after your last time entry, Sara Musa  
17 entered time to update report.

18 Do you see that?

19 A. I do.

20 Q. Is that right? She entered  
21 an entry for that, right?

22 A. Yes.

23 Q. And then --

24 A. Hold on a second.

1 Everything stopped on 8/7,  
2 just because they're in a different part  
3 of the world, they put their time in  
4 late. And that's why it's entered in  
5 after 8/7.

6 Q. And let me get to that,  
7 then. I'm going to ask you that.

8 So the entry on August 13th  
9 by Sara Musa to update the report and the  
10 entry on August 14th, a week after your  
11 last entry on the report, there's an  
12 entry by Sara Musa also to update the  
13 report, right?

14 A. Yes.

15 Q. And your report is dated  
16 August 7th, right?

17 A. Yes, it is.

18 Q. I'll represent that it was  
19 served on plaintiffs' counsel on August  
20 7th.

21 So you're saying it took a  
22 week for Ms. Musa to enter her time?

23 A. Not uncommon.

24 Q. Is that true throughout this

1 whole document, where we see Ms. Musa's  
2 time, we can assume that it was entered  
3 late?

4 A. I don't know.

5 But in this particular  
6 situation, based on the timeframe that we  
7 were in and the fact that we were in the  
8 summer months, sometimes time does get  
9 entered late, unfortunately.

10 Q. So the -- there was a draft  
11 report that happened on the day before  
12 you started the report, and then you  
13 began writing your report the day after  
14 the draft report was finalized, right?

15 A. The draft report --

16 Q. Let me rephrase it. Let me  
17 rephrase it.

18 MR. HAEFELE: Actually,  
19 let's take a couple-minute break.

20 VIDEO TECHNICIAN: Going off  
21 the record at 3:50 p.m.

22 - - -

23 (Whereupon, a brief recess  
24 was taken.)

1

- - -

2

VIDEO TECHNICIAN: Back on

3

the record at 3:55 p.m.

4

MR. HAEFELE: Mr. Marks,

5

thank you for your time. I don't

6

have any more questions for you.

7

THE WITNESS: Thank you, Mr.

8

Haefele.

9

MR. HAEFELE: Thank you.

10

MR. GOETZ: Any more

11

questions from plaintiffs' side?

12

MR. HAEFELE: I believe not,

13

Fred.

14

MR. MALONEY: Nothing from

15

me.

16

MR. GOETZ: Can we take just

17

five minutes, and we'll see if

18

there's any questions from our

19

side.

20

VIDEO TECHNICIAN: Going off

21

the record, 3:56 p.m.

22

- - -

23

(Whereupon, a brief recess

24

was taken.)

1 - - -

2 VIDEO TECHNICIAN: Back on  
3 the record at 4:00 p.m.

4 MR. GOETZ: And I just have  
5 a very few questions for you, Mr.  
6 Marks.

7 - - -

8 EXAMINATION

9 - - -

10 MR. GOETZ: I want to bring  
11 up Exhibit-970 to start.

12 BY MR. GOETZ:

13 Q. And Mr. Carter asked you  
14 questions about Page 4, 5 and 6 of this  
15 document, all of which fall under the  
16 general description, Common warning  
17 signals or red flags of potential billing  
18 fraud include but are not limited to --  
19 and then you have that list.

20 Do you recall those  
21 questions?

22 A. Yes, sir.

23 Q. And then we have, These  
24 warnings or red flags can be organized

1 into four general categories.

2 And then Mr. Carter asked  
3 you some specific questions about some of  
4 those categories.

5 Do you recall those  
6 questions?

7 A. I do.

8 Q. And you wanted to explain  
9 some of your answers, but you didn't have  
10 the opportunity.

11 What explanation did you  
12 want to give?

13 A. Just that I mentioned that  
14 these are red flags, and a red flag does  
15 not mean that there is fraud.

16 A red flag is an observable  
17 event that should cause an individual to  
18 stop, evaluate and, if need be,  
19 investigate further. That's it.

20 Q. So failure to reconcile  
21 accounts in a timely manner, is that --  
22 while a red flag, is that indicative, in  
23 and of itself, of fraud or improprieties?

24 A. No.

1           Q.     Accounts with many large  
2     round numbers or transactions that are  
3     unusually large or small, is that, in and  
4     of itself, indicative of fraud?

5           A.     No.

6           Q.     And as you said, I think  
7     earlier at the beginning of your  
8     testimony, you're not saying that there  
9     were no red flags in your review of any  
10    of the WAMY material, are you?

11          A.     No.

12          Q.     But did any of those rise to  
13    the level where, in your opinion, there's  
14    any evidence of fraud or financial  
15    improprieties, money laundering, anything  
16    like that?

17          A.     No. Based on my review of  
18    the financial information, which, if you  
19    allow me one second here, which I  
20    considered and our team considered the  
21    audit reports, the bank statements, the  
22    bank reports, the receipts, financial  
23    reports, project reports, of which there  
24    were over 800 of, operational reports,



1 communications, which there were over 150  
2 of, 22 contracts and those types of  
3 things, we did -- we did identify things  
4 that certainly caused us to pause.

5 But after further review,  
6 they were not red flags. They were  
7 disposed of.

8 Q. And then moving to a  
9 different question.

10 Mr. Carter asked you about  
11 audits, I believe, specifically or  
12 audited financial statements from a  
13 number of countries, WAMY USA, Sudan,  
14 Russia, Philippines, Austria, Nigeria,  
15 Yemen and Kyrgyzstan.

16 Do you recall those  
17 questions?

18 A. I do.

19 Q. And I believe, in essence,  
20 your testimony was that you couldn't  
21 recall reviewing audits from those  
22 particular chapters or countries; is that  
23 right?

24 A. That's correct.